



OFFICE OF THE ATTORNEY GENERAL · STATE OF TEXAS  
JOHN CORNYN

August 15, 2002

Lieutenant Arturo Valdez  
McAllen Police Department  
P.O. Box 220  
McAllen, Texas 78505- 0220

OR2002-4502

Dear Lieutenant Valdez:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 167301.

The McAllen Police Department (the “department”) received a request for Case No. 02-21257. You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.108(a) excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if: (1) release of the information would interfere with the detection, investigation, or prosecution of crime.” Generally, a governmental body claiming section 552.108 must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the requested information would interfere with law enforcement. *See* Gov’t Code §§ 552.108(a)(1), (b)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the requested offense report relates to a pending criminal investigation. However, the offense report on its face states that the incident under investigation was an accident, and no charges were filed. Thus, because of the conflicting information you have provided, we find that section 552.108 is inapplicable to the submitted information. Thus, the submitted information may not be withheld from disclosure under section 552.108.

The submitted records contain motor vehicle information that is excepted from public disclosure under section 552.130 of the Government Code. Section 552.130 provides that

information is excepted from the requirement of Section 552.021 if the information relates to a motor vehicle title or registration issued by an agency of this state. *See* Gov't Code § 552.130(a)(2). We note, however, that information protected under section 552.130 is intended to protect a person's privacy. Therefore, under section 552.023 of the Government Code, a person who is the subject of the information or the person's authorized representative has a special right of access to such information. Accordingly, the requestor has a special right of access to her license plate number and vehicle identification number. Thus, the department must release all of the submitted information to the requestor.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

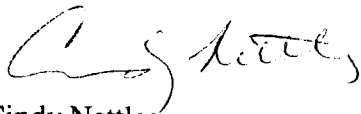
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be

sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "Cindy Nettles", written over a horizontal line.

Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/jh

Ref: ID# 167301

Enc. Submitted documents

c: Ms. Alicia Garza-Sanchez  
6517 North 22<sup>nd</sup>  
McAllen, Texas 78504  
(w/o enclosures)